

## **DESIGN/BUILD PROCUREMENT GUIDELINES**

Public Works project managers have typically used the conventional Design-Bid-Build procurement process to complete projects. There have been instances where the Design/Build method would have brought value to a project; but lack of understanding of how to complete the process did not allow owners to realize the benefits.

Not every project is well suited for Design/Build and it is incumbent upon the community to demonstrate that this alternative method of project delivery is in the best interest of the public, taxpayers and other stakeholders. Projects that are schedule-sensitive and/or complex, technically challenging renovation projects are usually appropriate for design/build. The teaming that takes place early in the process between the Design/Builder and Owner provides ways to condense the schedule and identify the potential for cost savings.

In the past, local units of government have utilized and state agencies have allowed the Design/Build concept with low interest loan funding. The following generally outlines the requirements to receive funding for a Design/Build project from the SRF programs and provide steps necessary to ensure a successful project.

1. The first step is to develop an engineering report/facility plan clearly defining the scope and requirements of the project. This would come from internal staff or through a consultant, typically a consulting engineer.
2. The next step is to identify a Program Manager. The engineer responsible for the engineering report/facility plan could continue with the community as a Program Manager to develop a project budget, provide consultation to the community in the Design/Build selection process and provide construction administration and inspection services. The Program Manager would not be engaged to provide design services, would not submit a Design/Build proposal to the community, and would not be a member of the Design/Build team.

The Program Manager would be a representative of the Owner and in direct communication with any outside funding agencies. The Program Manager would not hold a contract for services to design or provide any improvements required of the project. The Program Manager would be responsible for looking out for the interests of the Owner during the process and would represent the interests of the owner in negotiations with the Design/Build team. The Program Manager must be a licensed engineer in the State of Kansas and, ideally, someone who is familiar with the project.

For communities with the appropriate capabilities, the Program Manager could be an engineer within its staff. It would be important to recognize that this would require a significant time commitment by the Owner.

## DESIGN/BUILD PROCUREMENT GUIDELINES

3. If the engineer that has prepared the engineering report wishes to enter the Design/Build competition, upon completion of the engineering report, the engineer would need to separate himself completely from the remaining project activities which include, but are not limited to, project management, project and construction administration, development of the project budget, providing consultation to the borrower in the Design/Build selection process and inspection services. The Owner should appoint a new Program Manager.
4. The services of the Design/Build Team could be acquired by several different methods including: 1) Qualification Based Selection or 2) Selection Based on Best Value.

Qualification Based Selection is based on an approach similar to the procurement procedures for engineering services. This method would initially require a Request for Qualifications (RFQ) based on studies developed earlier for the improvements. To ensure the community receives fair value for the proposed work, the community should obtain an impartial, independent estimate of the total project cost prior to the start of negotiations.

The RFQ should request Design/Build Team qualifications and a response to the scope of work described, but should not request detailed design, cost or price information. Qualifications may include:

- a. Bonding, Insurance and Licensing capabilities: ability to secure required bonds, provide insurance to the limits required for the project and qualify to do business in the State of Kansas,
- b. Conflicts of Interest: no conflicts of interest for the project exist,
- c. Experience: satisfactory Design/Build experience on projects of a similar size, nature and project delivery method,
- d. Project Understanding: knowledge and understanding of design and construction of facilities of a similar nature, processes and technology and local environment,
- e. Qualifications: capabilities including financial resources, operational stability, safety, pending claims and competence,
- f. History: experience and past performance for projects of similar complexity and size – quality of work, cost, ability to meet schedules, cooperation and responsiveness, references, change order history,
- g. Resources and Organization: resources available to perform the required services, including key personnel, project organization, scheduling abilities to accomplish work in a timely and competent manner and construction equipment.

## DESIGN/BUILD PROCUREMENT GUIDELINES

A range of points should be assigned to each of the above in accordance with their importance to the project. Design/Build Teams should be graded and ranked in order of their qualifications with the most qualified being selected to enter into negotiations for a Design/Build construction contract. If the Owner and the most qualified Design/Build Team are unable to reach an agreement, the Owner can then terminate negotiations and enter into negotiations with the Design/Build Team determined to be the next most qualified.

Selection Based on Best Value allows the community to receive comparative costs while providing an opportunity to include qualifications in the selection process. Generally, this is a two-step process. The Qualifications Based Selection (QBS) takes place first with the Request for Qualifications (RFQ) being issued. A short list of two (2) or three (3) qualified Design/Build Teams is determined. It is recommended that not more than three (3) Design/Build Teams be short-listed. Then, information from an engineering report/facility plan should be summarized sufficiently in a Request for Proposal (RFP) to describe the scope of the project and the project requirements. The short-listed Design/Build Teams will then prepare proposals that include an understanding of the project, project approach, project schedule, technical details and cost. A range of points should be assigned to each of these items depending upon the importance to the project. RFP's would be graded and ranked. Cost could be a factor of 30% with other factors being: Experience/References, Expertise of Personnel, Project Approach, History with Schedule and Budget, Bonding and Insurance capabilities, Project Understanding.

5. The KCA can recommend using the EJCDC Standard Form of Agreement Between Owner and Design/Build Team.
6. The Owner has the option to follow the state procurement procedures established by KDHE for the SRF program or to establish its own procedures for either of the procurement methods described in Item 4 above.
7. The community's attorney must certify the procurement procedure is not in violation of state laws or local ordinances.
8. KDHE approval of a detailed Design Memorandum and Design/Build Proposal will substitute for plans and specifications approval requirements of the SRF program. However, final plans and specifications will need to be submitted for permitting and other regulatory needs. Typical plan and specification submittals are provided at 30%, 80%, and 100% (as-built) design completion.
9. The regulations of the KDHE State Revolving Loan Fund programs require construction services or Design/Build Contracts to have KDHE approval prior to execution of the contract documents.